



# House of Representatives

**File No. 638**

General Assembly

February Session, 2002

**(Reprint of File No. 299)**

Substitute House Bill No. 5627  
As Amended by House  
Amendment Schedule "A"

Approved by the Legislative Commissioner  
May 4, 2002

**AN ACT CONCERNING THE DISCLOSURE OF SECURITY  
INFORMATION UNDER THE FREEDOM OF INFORMATION ACT.**

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1       Section 1. Subsection (b) of section 1-210 of the general statutes, as  
2       amended by section 1 of public act 01-26, is repealed and the following  
3       is substituted in lieu thereof (*Effective October 1, 2002*):

4       (b) Nothing in the Freedom of Information Act shall be construed to  
5       require disclosure of:

6       (1) Preliminary drafts or notes provided the public agency has  
7       determined that the public interest in withholding such documents  
8       clearly outweighs the public interest in disclosure;

9       (2) Personnel or medical files and similar files the disclosure of  
10      which would constitute an invasion of personal privacy;

11      (3) Records of law enforcement agencies not otherwise available to  
12      the public which records were compiled in connection with the  
13      detection or investigation of crime, if the disclosure of said records

14 would not be in the public interest because it would result in the  
15 disclosure of (A) the identity of informants not otherwise known or the  
16 identity of witnesses not otherwise known whose safety would be  
17 endangered or who would be subject to threat or intimidation if their  
18 identity was made known, (B) signed statements of witnesses, (C)  
19 information to be used in a prospective law enforcement action if  
20 prejudicial to such action, (D) investigatory techniques not otherwise  
21 known to the general public, (E) arrest records of a juvenile, which  
22 shall also include any investigatory files, concerning the arrest of such  
23 juvenile, compiled for law enforcement purposes, (F) the name and  
24 address of the victim of a sexual assault under section 53a-70, 53a-70a,  
25 53a-71, 53a-72a, 53a-72b or 53a-73a, or injury or risk of injury, or  
26 impairing of morals under section 53-21, or of an attempt thereof, or  
27 (G) uncorroborated allegations subject to destruction pursuant to  
28 section 1-216;

29 (4) Records pertaining to strategy and negotiations with respect to  
30 pending claims or pending litigation to which the public agency is a  
31 party until such litigation or claim has been finally adjudicated or  
32 otherwise settled;

33 (5) (A) Trade secrets, which for purposes of the Freedom of  
34 Information Act, are defined as information, including formulas,  
35 patterns, compilations, programs, devices, methods, techniques,  
36 processes, drawings, cost data, or customer lists that (i) derive  
37 independent economic value, actual or potential, from not being  
38 generally known to, and not being readily ascertainable by proper  
39 means by, other persons who can obtain economic value from their  
40 disclosure or use, and (ii) are the subject of efforts that are reasonable  
41 under the circumstances to maintain secrecy; and

42 (B) Commercial or financial information given in confidence, not  
43 required by statute;

44 (6) Test questions, scoring keys and other examination data used to  
45 administer a licensing examination, examination for employment or

46 academic examinations;

47 (7) The contents of real estate appraisals, engineering or feasibility  
48 estimates and evaluations made for or by an agency relative to the  
49 acquisition of property or to prospective public supply and  
50 construction contracts, until such time as all of the property has been  
51 acquired or all proceedings or transactions have been terminated or  
52 abandoned, provided the law of eminent domain shall not be affected  
53 by this provision;

54 (8) Statements of personal worth or personal financial data required  
55 by a licensing agency and filed by an applicant with such licensing  
56 agency to establish the applicant's personal qualification for the  
57 license, certificate or permit applied for;

58 (9) Records, reports and statements of strategy or negotiations with  
59 respect to collective bargaining;

60 (10) Records, tax returns, reports and statements exempted by  
61 federal law or state statutes or communications privileged by the  
62 attorney-client relationship;

63 (11) Names or addresses of students enrolled in any public school or  
64 college without the consent of each student whose name or address is  
65 to be disclosed who is eighteen years of age or older and a parent or  
66 guardian of each such student who is younger than eighteen years of  
67 age, provided this subdivision shall not be construed as prohibiting the  
68 disclosure of the names or addresses of students enrolled in any public  
69 school in a regional school district to the board of selectmen or town  
70 board of finance, as the case may be, of the town wherein the student  
71 resides for the purpose of verifying tuition payments made to such  
72 school;

73 (12) Any information obtained by the use of illegal means;

74 (13) Records of an investigation or the name of an employee  
75 providing information under the provisions of section 4-61dd;

76 (14) Adoption records and information provided for in sections 45a-  
77 746, 45a-750, as amended, and 45a-751;

78 (15) Any page of a primary petition, nominating petition,  
79 referendum petition or petition for a town meeting submitted under  
80 any provision of the general statutes or of any special act, municipal  
81 charter or ordinance, until the required processing and certification of  
82 such page has been completed by the official or officials charged with  
83 such duty after which time disclosure of such page shall be required;

84 (16) Records of complaints, including information compiled in the  
85 investigation thereof, brought to a municipal health authority pursuant  
86 to chapter 368e or a district department of health pursuant to chapter  
87 368f, until such time as the investigation is concluded or thirty days  
88 from the date of receipt of the complaint, whichever occurs first;

89 (17) Educational records which are not subject to disclosure under  
90 the Family Educational Rights and Privacy Act, 20 USC 1232g;

91 (18) Records, the disclosure of which the Commissioner of  
92 Correction, or as it applies to Whiting Forensic Division facilities of the  
93 Connecticut Valley Hospital, the Commissioner of Mental Health and  
94 Addiction Services, has reasonable grounds to believe may result in a  
95 safety risk, including the risk of harm to any person or the risk of an  
96 escape from, or a disorder in, a correctional institution or facility under  
97 the supervision of the Department of Correction or Whiting Forensic  
98 Division facilities. Such records shall include, but are not limited to:

99 (A) Security manuals, including emergency plans contained or  
100 referred to in such security manuals;

101 (B) Engineering and architectural drawings of correctional  
102 institutions or facilities or Whiting Forensic Division facilities;

103 (C) Operational specifications of security systems utilized by the  
104 Department of Correction at any correctional institution or facility or  
105 Whiting Forensic Division facilities, except that a general description

106 of any such security system and the cost and quality of such system  
107 may be disclosed;

108 (D) Training manuals prepared for correctional institutions and  
109 facilities or Whiting Forensic Division facilities that describe, in any  
110 manner, security procedures, emergency plans or security equipment;

111 (E) Internal security audits of correctional institutions and facilities  
112 or Whiting Forensic Division facilities;

113 (F) Minutes or recordings of staff meetings of the Department of  
114 Correction or Whiting Forensic Division facilities, or portions of such  
115 minutes or recordings, that contain or reveal information relating to  
116 security or other records otherwise exempt from disclosure under this  
117 subdivision;

118 (G) Logs or other documents that contain information on the  
119 movement or assignment of inmates or staff at correctional institutions  
120 or facilities; and

121 (H) Records that contain information on contacts between inmates,  
122 as defined in section 18-84, and law enforcement officers;

123 (19) Records [, the disclosure of which the Commissioner of Public  
124 Works or, in the case of records concerning Judicial Department  
125 facilities, the Chief Court Administrator, has] when there are  
126 reasonable grounds to believe disclosure may result in a safety risk,  
127 including the risk of harm to any person, any [state-owned]  
128 government-owned or leased institution or facility or any fixture or  
129 appurtenance and equipment attached to, or contained in, such  
130 institution or facility, except that such records shall be disclosed to a  
131 law enforcement agency upon the request of the law enforcement  
132 agency. Such reasonable grounds shall be determined (A) with respect  
133 to records concerning any executive branch agency of the state or any  
134 municipal, district or regional agency, by the Commissioner of Public  
135 Works, after consultation with the chief executive officer of the agency;  
136 (B) with respect to records concerning Judicial Department facilities,

137 by the Chief Court Administrator; and (C) with respect to records  
138 concerning the Legislative Department, by the executive director of the  
139 Joint Committee on Legislative Management. As used in this section,  
140 "government-owned or leased institution or facility" includes, but is  
141 not limited to, an institution or facility owned or leased by a public  
142 service company, as defined in section 16-1, as amended, a certified  
143 telecommunications provider, as defined in section 16-1, as amended,  
144 or a municipal utility that furnishes electric, gas or water service, but  
145 does not include an institution or facility owned or leased by the  
146 federal government, and "chief executive officer" includes, but is not  
147 limited to, an agency head, department head, executive director or  
148 chief executive officer. Such records [shall] include, but are not limited  
149 to:

150 [(A)] (i) Security manuals or reports; [, including emergency plans  
151 contained or referred to in such security manuals;]

152 [(B)] (ii) Engineering and architectural drawings of [state-owned]  
153 government-owned or leased institutions or facilities;

154 [(C)] (iii) Operational specifications of security systems utilized at  
155 any [state-owned] government-owned or leased institution or facility,  
156 except that a general description of any such security system and the  
157 cost and quality of such system, may be disclosed;

158 [(D)] (iv) Training manuals prepared for [state-owned] government-  
159 owned or leased institutions or facilities that describe, in any manner,  
160 security procedures, emergency plans or security equipment;

161 [(E)] (v) Internal security audits of [state-owned] government-  
162 owned or leased institutions or facilities;

163 [(F)] (vi) Minutes or [recordings] records of meetings, [of the  
164 Department of Public Works or the Judicial Department,] or portions  
165 of such minutes or [recordings] records, that contain or reveal  
166 information relating to security or other records otherwise exempt

167 from disclosure under this subdivision; [and]

168 [(G)] (vii) Logs or other documents that contain information on the  
169 movement or assignment of security personnel at [state-owned]  
170 government-owned or leased institutions or facilities; and

171 (viii) Emergency plans and emergency recovery or response plans;

172 (20) Records of standards, procedures, processes, software and  
173 codes, not otherwise available to the public, the disclosure of which  
174 would compromise the security or integrity of an information  
175 technology system.

176 Sec. 2. Subsection (d) of section 1-210 of the general statutes is  
177 repealed and the following is substituted in lieu thereof (*Effective*  
178 *October 1, 2002*):

179 (d) Whenever a public agency, except the Judicial Department or  
180 Legislative Department, receives a request from any person for  
181 disclosure of any records described in subdivision (19) of subsection  
182 (b) of this section, as amended by this act, under the Freedom of  
183 Information Act, the public agency shall promptly notify the  
184 Commissioner of Public Works of such request, in the manner  
185 prescribed by the commissioner, before complying with the request as  
186 required by the Freedom of Information Act. If the commissioner, after  
187 consultation with the chief executive officer of the applicable agency,  
188 believes the requested record is exempt from disclosure pursuant to  
189 subdivision (19) of subsection (b) of this section, as amended by this  
190 act, the commissioner may direct the agency to withhold such record  
191 from such person. In any appeal brought under the provisions of  
192 section 1-206 of the Freedom of Information Act for denial of access to  
193 records for any of the reasons described in subdivision (19) of  
194 subsection (b) of this section, as amended by this act, such appeal shall  
195 be against the Commissioner of Public Works, exclusively, or, in the  
196 case of records concerning Judicial Department facilities, the Chief  
197 Court Administrator or, in the case of records concerning the

198 Legislative Department, the executive director of the Joint Committee  
199 on Legislative Management.

200 Sec. 3. Subsection (b) of section 4b-131 of the general statutes is  
201 repealed and the following is substituted in lieu thereof (*Effective*  
202 *October 1, 2002*):

203 (b) No provision of the Freedom of Information Act, as defined in  
204 section 1-200, as amended, shall be construed to require the disclosure  
205 of records in any form concerning (1) security measures in [state-  
206 owned] government-owned or leased facilities, (2) security audit  
207 recommendations for [state-owned] government-owned or leased  
208 facilities, or (3) future security measures to be implemented in [state-  
209 owned] government-owned or leased facilities.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>



The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill requires that records concerning the Judicial Department and the Chief Court Administrator shall not be disclosed under the Freedom of Information Act due to disclosure constituting a safety risk. These records can be disclosed to law enforcement agencies upon the request of a law enforcement agency.

House "A" allows records concerning the Judicial Department and Chief Court Administrator to be disclosed to law enforcement agencies. It has no fiscal impact.

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**OLR Amended Bill Analysis**

sHB 5627 (as amended by House "A")\*

**AN ACT CONCERNING THE DISCLOSURE OF SECURITY INFORMATION UNDER THE FREEDOM OF INFORMATION ACT****SUMMARY:**

By law, the public works commissioner and the chief court administrator can direct public agencies to withhold certain security-related records about buildings and facilities under their management or control from members of the public who request disclosure under the Freedom of Information Act (FOIA). (The correction and mental health and addiction services commissioners can keep confidential similar records relating to their facilities.)

This bill gives the Legislative Management Committee's executive director the same authority with respect to buildings and facilities under her management or control. Like they do with the other officials, agencies that receive requests for such records must notify the executive director.

The bill broadens the public works commissioner's authority; allowing him to decide on the disclosure of security-related records of all state executive branch agencies, municipalities, and districts and regional agencies. He must consult with the head of each such agency before making a decision on records for buildings and facilities under his management or control.

The bill specifies that the authority of the public works commissioner, chief court administrator, and Legislative Management Committee's executive director to keep these records confidential does not affect law enforcement agencies' ability to access them. These officials must provide copies of records to law enforcement agencies that ask for them.

\*House Amendment "A" replaced the original bill primarily by (1) giving the Legislative Management Committee's executive director the

authority to withhold security records and (2) expanding the public works commissioner's authority.

EFFECTIVE DATE: October 1, 2002

## **EXEMPT RECORDS**

The bill exempts the following records from disclosure under the FOIA if reasonable grounds exist to believe that their release could pose a safety risk, including harm to anyone or any facility or equipment owned or leased by the state; a town; public service company; certified telecommunications provider; or municipal gas, electric, or water services utility. These records include:

1. engineering and architectural drawings;
2. security systems' operational specifications (except a general description, cost, and quality of such a system) ;
3. training manuals that describe security procedures, emergency plans, or security equipment;
4. internal security audits; and
5. logs or other documents containing information on security personnel movement or assignments.

The bill also exempts, under the same circumstances, (1) security manuals, (2) emergency plans and emergency recovery or response plans, and (3) staff meeting minutes or records, or portions of them, that contain or reveal security information or otherwise exempt records.

## **NOTIFICATION**

When a public agency, other than the Judicial Department and the Division of Criminal Justice, receives a request for a public record covered under the bill, it must promptly notify the public works commissioner or, the Legislative Management executive director in the case of legislative records, in the manner he prescribes. The commissioner or director can deny the request if the bill exempts the record from disclosure. The bill makes the public works commissioner, rather than the executive branch agency, municipality, or district or regional agency, as the case may be, the defendant in any appeal by an aggrieved party to the Freedom of Information Commission.

**BACKGROUND*****Legislative History***

On April 10, 18, and 24, the House referred the bill (File 299) to the Planning and Development, Public Safety, and Judiciary committees, respectively. They favorably reported it on April 16, 23, and 25, respectively.

**COMMITTEE ACTION**

## Government Administration and Elections Committee

Joint Favorable Substitute

Yea 19      Nay 0

## Planning and Development Committee

Joint Favorable Report

Yea 15      Nay 0

## Public Safety Committee

Joint Favorable Report

Yea 17      Nay 0

## Judiciary Committee

Joint Favorable Report

Yea 28      Nay 2